

made unless there is a serious burden on the Examiner to examine all of the claims in a single application.

In this regard, it is respectfully submitted that the search required for the claims of Groups II, III and IV would be substantially co-extensive with the search for the claims of Group I since the claims all require the presence of the acrylic polymer of claim 1. A substantial overlap in the examination involved for Groups I-IV is therefore present such that the claims are best examined together in the same application rather than in a separate divisional application.

In the Official Action, it is asserted that the claims of Groups I and II-IV are related as mutually exclusive species in an "intermediate-final product relationship." As indicated in MPEP at §806.04(b), for a restriction on this basis to be considered proper, the "intermediate loses its identity in the final product." In the present case, there is no apparent basis to conclude that the intermediate product (i.e., the acrylic polymer) would lose its identity in the final product (i.e., the admixture, aqueous slurry or cementitious composition). Absent some reason to consider that the acrylic polymer would lose its identity, such that the final product does not show the characteristics of the intermediate product, a proper basis for requiring a restriction based on an intermediate-final product relationship does not appear to exist.

For at least the foregoing reasons, withdrawal of the Restriction Requirement and examination of claims 1-38 of the above-identified application are respectfully requested.

If any issues remain outstanding, or should the Examiner have any questions concerning this paper, he is invited to contact the undersigned at (703) 838-6683.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: May 13, 2003

By: George F. Lesmes  
George F. Lesmes  
Registration No. 19,995

P.O. Box 1404  
Alexandria, Virginia 22313-1404  
(703) 836-6620